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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/737,299

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Isaac D. White

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AT&T Legal Department - SZ

Attn: Patent Docketing

Room 2A-207

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EXAMINER

LE, TAN

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

05/26/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/737,299	Applicant(s) WHITE ET AL.	
	Examiner Tan Le	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6,8,10,11,13,15 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) 2, 4, 17 and 20-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,8,10,11,13,15,18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The response received 2/02/09 has been placed in the file and was considered by examiner. Currently, This application contains claims numbered 1, 2, 4, 6, 8, 10, 11, 13, 15, 17-19 and 20-24. Claims 3, 5, 7, 9, 12, 14 and 16 were previously canceled. Claims 2, 4, 17 and 20-24 were previously withdrawn. An action on the merit follows:

Claim Objections

Claim 15 is objected to because claim 15 depends upon a canceled claim 14. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 6, 8, 10-11, 13, 15 and 18-19 are under 35 U.S.C. 103(a) as being unpatentable over AU Patent No. 200223231 to Nagle in view of US Patent No. 6,042,080 to Shepherd et al. and further in view of US Patent No. 6,290,377 to Hulse

As to claims 1, 6, 8, 10-11, 13-15 and 18-19, Nagle teaches a telescopic support pole for supporting a cable above the ground or floor at construction sites and in factories comprising a base (19); at least one or more telescopic segments (25) connected to the base that extend and retract in a telescopic configuration; a cable receptacle (28) attached to an end portion of one of a final segment of the telescopic

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segment; the cable receptacle having a generally U-shaped cross-section for receiving cable.

The Nagle device differs from claim 1 and 19 of the present invention in that it is not provided with at least one attachment device in the base, wherein the attachment device is an adhesive to adhere the base to the attachment surface.

Shepherd et al. teaches the concept of such. In particular, Shepherd teaches an adhesive attachment device (magnet base 14 (magnets 20 retained within the base 14 via adhesive, for example) for removably attachable to a magnetically attachment plate/surface such as surface 90, 90' or 102 (see Figs 15-17, or col. 10, lines 10-63) for example). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a an adhesive attachment device on the Nagle base as taught by Shepherd et al. in order to provide a base which is stable, inexpensive and simple to set up with minimal effort and readily removable and transportable.

Nagle in vie w of Shepherd also does not disclose the shape of the attachment device being elliptically shaped cross section with a major diameter that forms opposite pointed ends of an ellipse. However, it would have been an obvious matter of design choice to make the attachment device to be elliptical in shape, since applicant has not disclosed that a elliptical shape solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the shape other than elliptical. Nevertheless, the particular shape claimed by the Applicant is nothing more than one of numerous shapes that a person having ordinary skill in the art

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provides for using routine experimentation based on its suitability for the intended use of the invention. See *In Re Daily*, 149 USPQ 47 (CCPA 1976).

Nagle and Sepherd et al combined demonstrated all the claims features of Applicant's invention except for a control system installed in the base and operative associated with the cable; a portable communication device configured to provide instructions to control system through at least a wireless communication media, and at least one mechanical driving mechanism connected to a final segment of the telescopic segments and operatively coupled to respond the control system to enable the telescoping action; and an electric generator power source providing electric power to the cable drop support system to cause extension and retraction of the telescopic segments from instructions received from the control system.

Hulse teaches the concept of such. Hulse teaches that is known to have a pneumatic telescopic mast supported including pneumatic control means (Fig. 2, and Fig. 5 in general) installed in the based for displacing the mast 10 sections between the retracted and extended positions and a drive wheel means (drive mechanism) (585, 586 for example) for pivoting the mast between generally horizontal and vertical positions; and means for rotating the drive wheel means in opposite directions; and linkage means interconnecting the drive wheel means and the mast; and an electric generator power source (powered by air compressor, connected to the DC power source (battery supply means which is typical 24 volt-supply) and the mechanism providing electric power to the cable drop support system to cause extension and retraction of the telescopic segments from instructions received from the control system.

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Thus Hulse teaches the drive mechanism connected to the telescopic segments by linking means and operatively coupled to respond to the control system.

Nagle as modified and Hulse are combinable because they are from the same field of the art, telescopic cable support pole.

At the time the invention was made it would have been obvious to one of ordinary skill in the art to use the teaching of Hulse to provide a control system operative associated with the cable, and a portable communication device and at least one mechanical driving mechanism operatively coupled to the telescopic segments and operative coupled to respond the control system to enable the telescoping action on the Nagle as modified in order to automatically adjust the height of the pole depending the conditions of use.

Nevertheless, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an automatic control means and a portable communication device such as a telephone operatively associated with the telescopic segments of the pole or mass and the mechanical driving mechanism operatively coupled to respond to the control system to enable the telescopic action, since it has been held that broadly providing a mechanical or automatic means to replace manual activity, which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

Response to Arguments

Applicant's arguments filed 2/02/09 have been fully considered but they are not persuasive.

In response to Applicant's argument that "the proposed combination of Nagle, Sepherd, and Hulse, fails to teach or suggest "at least one mechanical drive mechanism connected to the final segment of the telescopic segments and operative coupled to respond to the control system.", the examiner respectfully disagrees. Hulse clearly teaches at least one mechanical drive mechanism connected to the telescopic segments by linking mechanism and operative coupled to respond to the control system as pointed out in the final action.

Nevertheless, the combination of Nagle, Sepherd and Hulse would have fairly suggested the subject matter of claims 1, 6, 8, 10, 11, 13, 15, 18 and 19 as stated in the final action. It would have been no more than an obvious matter to combine the teaching of the prior art to the invention, which render the subject matter obvious within the meaning of 35 U.S.C. 103.

Note that the examiner has provided a rationale as to why one of ordinary skill in the art would have been expected to draw therefrom in light of existing prior art knowledge. Applicant however, has not provided any persuasive reasons why the examiner's finding is incorrect. Since the Applicant has failed to address the reasoning supplied by the examiner as to why the modification would have not been obvious, the Applicant's argument is not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen J. Shriver can be reached on (571) 272-6689. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Amy J. Sterling/
Primary Examiner, Art Unit 3632
5/22/09

Tan Le
Examiner
Art Unit 3632